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May 6th, 2019

Chair Paul Holvey
House Committee on Rules

Re: Hearing on HB 3431 on May 8th, 2019

Chair Holvey and Committee members,

Please accept my testimony on this bill. I have for several years represented, and continue to represent, blind Oregonians in various matters involving the Business Enterprise Program (BEP) administered under the enabling federal Randolph-Sheppard Act (RSA) and corresponding state laws, and would like to offer my perspective.

The RSA is a powerful tool for blind people in achieving employment and independence by running their own businesses in public buildings. It is a vital means of empowering blind people to participate in the State economy and is a critical tool for reducing the tragic and unacceptable 70% unemployment among blind Oregonians.

HB 3431 is a private bill requested by Metro for its benefit, but is written in such a way as to drastically alter the overall administration of the BEP. It would immediately terminate existing business, employment, and contract relationships for blind Oregonians and their business partners. HB 3431 should not pass out of this Committee.

Metro's Concerns do not Require a Legislative Remedy

It is wholly inappropriate for Metro to seek sweeping changes in a law passed two years ago (HB 3253, 2017 regular session). Metro had

many opportunities to lobby, testify, communicate its concerns, and otherwise participate in the legislative process for HB 3253. Its present concerns can be addressed by discussion, negotiation, and intergovernmental agreement between it and the Oregon Commission for the Blind (OCB) and the elected committee of blind vendors, the Business Enterprise Consumer Committee (BECC).

Metro operates in only three counties in the state. Its concerns must be addressed in an appropriate manner and at the appropriate level. Altering the BEP **statewide** for Metro's convenience is like killing a fly with a sledgehammer. It is absurd for a law that applies statewide to have individual exceptions written into it for every local agency that experiences consternation with the implementation of the law.

From what I have been able to gather, both OCB and BECC membership are willing to work with Metro to accommodate its concerns and work out fair, equitable, common-sense solutions to Metro's perceived difficulties. Part of the problem, as I understand it, is that the BECC has not been invited to sit down with OCB and Metro to discuss how to resolve their issues. BECC's active participation in such discussions is vital to a successful resolution, and is required by law.¹ In informal discussions with individual BECC members, I have found that they all seem optimistic that Metro's concerns can be accommodated, and are eager to resolve any conflicts. Metro should make all reasonable efforts to reach an accommodation with OCB and BECC. Resorting to this sweeping legislation at this point in time is premature and counterproductive.

The Language of HB 3431 is Overly Broad and Sweeping

This bill as written effectively dismantles much of the BEP statewide, and is faintly ridiculous. Metro, which operates in only three of Oregon's 36

¹ "The State Committee of Blind Vendors shall: Actively participate with the State licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the State's vending facility program;" CFR § 395.14(b)(1); "The Commission for the Blind shall ensure the active participation of the Commission's Business Enterprise Consumer Committee in the Commission's major administrative, policy and program development decisions that impact the overall administration of the Commission's Business Enterprise Program." OAR 585-015-0030(6).

counties, proposes to take a huge swathe of business and employment opportunities away from blind Oregonians across the state. Has any coherent argument been made for the exclusion of each and every proposed category over the entire state, or have Metro's individual priorities and concerns just been cherry-picked and casually assumed to be universally in the best interest of Oregonians? I suspect it is the latter.

Are there really no "convention or exposition" centers across the state that could benefit the public and blind vendors by having vending and other food service provided by the BEP? What specifically about zoos makes it impossible that a publicly owned zoo could be suitable for BEP vending, in Metro's view? Is, for instance, every multi-use county building that has a performance space in need of relief from the provisions of HB 3253? What about "any...venue devoted to...travel"? This bill would prohibit blind Oregonians from serving rest areas by supplying vending services to travelers. The other categorical exceptions included in this bill are equally overly broad and unnecessary. Many successful BEP facilities now operating at venues this legislation proposes to eliminate from the definition of public buildings or property would no longer be able to operate. The entire thrust of HB 3253, which was written to *increase* employment opportunities, and which passed unanimously in both houses, would be thwarted by this ill-conceived legislation.

Again, Metro appears to want to effectively dismantle the hard work, negotiations, hours of testimony and work sessions that resulted in the passage of HB 3253 in one fell swoop, for nothing but its own convenience. No one, for instance, is pressing to force Metro to turn over its food service at the Oregon Zoo to the BEP. A clarifying intergovernmental agreement with OCB, (with the participation and agreement of the BECC) exempting the zoo and other unique facilities that, in any case, the BEP lacks the resources and staffing to take on, can be accomplished with a bit of time and effort. Additional legislation is wasteful and unnecessary to assuage Metro's concerns.

Metro might even consider- instead of going overboard with a ban on every conceivable instance where OCB's mandate applies to it- working with OCB and the BECC to find more opportunities to employ blind Oregonians, who again, are overwhelmingly underemployed compared to the general population while being eminently employable and qualified. How nice would that be? The elusive 'win-win.'

Conclusion

This bill is premature, coming before good-faith negotiations to find agreement between OCB, the BECC and Metro. It is regressive, quashing opportunities for blind Oregonians opened up by HB 3253. It is overly broad, conflating Metro's particular concerns with the rights and responsibilities of citizens and public bodies across the state. It is poorly written, taking away current and prospective opportunities away from blind people by eliminating an arbitrary 'laundry list' of facility types.

This bill should not be voted out of Committee. I hope the Committee will encourage Metro to seek an appropriate venue to resolve any concerns it has about the BEP, and to actively engage with OCB to explore how it can hire more blind people and create opportunities for the BEP. I am happy to answer any questions the Committee may have, act as a resource for the Committee, or provide any other assistance that might be helpful in this matter.

Sincerely,



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